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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/560,474

12/12/2005

John S. Tootle

222104-1010

3134

24504

7590

10/30/2008

THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP  
600 GALLERIA PARKWAY, S.E.  
STE 1500  
ATLANTA, GA 30339-5994

EXAMINER

COHEN, LEE S

ART UNIT

PAPER NUMBER

3739

MAIL DATE

DELIVERY MODE

10/30/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/560,474	<b>Applicant(s)</b> TOOTLE ET AL.	
	<b>Examiner</b> Lee S. Cohen	<b>Art Unit</b> 3739	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 28 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,2,11,25,26,31,32,37-39,46-48,55,56,61,62,67 and 68 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,2 and 66 is/are allowed.
- 6) ☒ Claim(s) 11,25,26,31,32,37-39,46-48,55,56,61,62,67 and 68 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 December 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                        |                                                                   |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/12/05</u> .                                                | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election of the Group II invention is noted; however, upon further review, the prior restriction requirement has been withdrawn. Accordingly, all claims of record have been acted upon.

### ***Specification***

The disclosure is objected to because of the following informalities: the last line of page 19 is vague.

Appropriate correction is required.

### ***Drawings***

The drawings are objected to because the specification details Figures 2A and 2B; however, only a Figure 2 is shown. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not

Art Unit: 3739

accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 2, 11, 25, 26, 31, 32, 37-39, 46-48, 55, 56, 61, 62, 67, and 68 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 11 – “the centers of said exposed ends” in line 9 lacks antecedent basis. Claim 25 – the metal wire, the preamplifier, and the current generator have not been positively set forth. These elements should be first recited prior to connecting other elements to them. Claim 31 is rejected as claim 25. Claim 37 – “Said substrate” in line 4 lacks antecedent basis; as in the above rejection of claim 25, many of the recited elements have not been positively set forth; “Said electrical insulator” in the last paragraph lacks antecedent basis and it is unclear how the electrical insulator is associated with the recited elements. Claim 38 – “said at least two carbon fibers” lack antecedent basis. Claim 39 is a negative limitation; the limiter can’t be stricken from the recited structure after it has been positively set forth. Claim 46 is rejected as claim 25 since many of the recited elements have not been positively set forth. Claim 48 is a negative limitation; the limiter can’t be stricken from the recited structure after it has been positively set forth. Claim 55 is rejected as claim 25 with respect most of the recited elements; “the biosensing electrodes” in the last two lines lacks antecedent basis as only biosensing electrode circuits have been set forth. Claim 56 – “said at least two carbon fibers” lacks antecedent basis. Claim 61 is rejected as claim 56; “each

Art Unit: 3739

said carbon fiber” in line 11 lacks antecedent basis. Claim 67 – “the centers of said exposed ends” lacks antecedent basis. Claim 68 – said at least two receiving electrodes” and “the centers of said exposed ends” lack antecedent basis.

***Allowable Subject Matter***

Claims 1, 2, and 66 are allowed.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Applicant should submit for consideration the referenced prior art of Kruger and Bachman (1981) set forth in the specification at pages 18-19.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lee S. Cohen whose telephone number is 571-272-4763. The examiner can normally be reached on Monday-Friday, 7:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on 571-272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3739

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Lee S. Cohen  
Primary Examiner  
Art Unit 3739

/Lee S. Cohen/  
Primary Examiner, Art Unit 3739  
September 29, 2008